

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-009723

05/12/2009

HONORABLE JOHN A. BUTTRICK

CLERK OF THE COURT
C. Castro
Deputy

PAULINE GILSON, et al.

FRANCIS G FLEMING

v.

JOHN KEMMERIES, et al.

SCOTT W HULBERT

STEPHEN M DICHTER
JAMES H MARBURGER
IVAN K MATHEW

INITIAL CASE MANAGEMENT CONFERENCE SET

This matter has been designated as complex litigation by the Presiding Judge of the Civil Department.

IT IS ORDERED AS FOLLOWS:

1. Initial Conference. All parties shall appear for an Initial Case Management Conference in this division on **June 22, 2009 at 3:30 p.m. for one hour** in this division before:

**The Honorable John A. Buttrick
Maricopa County Superior Court
Central Court Building
201 West Jefferson Street
Courtroom 704
Phoenix, AZ 85003
Phone: 602-506-0971**

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(a) **Attendance.** To minimize costs and facilitate a manageable conference, parties are not required to attend the conference, and parties with similar interests are expected to agree to the extent possible on a single attorney to act on their joint behalf at the conference. A party will not, by designating an attorney to represent its interests at the conference, be precluded from other representation during the litigation; and attendance at the conference will not waive objections to jurisdiction, venue, or service.

(b) **Service List.** This order is being electronically filed and mailed to the persons shown on the minute entry. Counsels receiving this order are requested to forward a copy of the order to other attorneys who should be notified of the conference. A corrected service list will be prepared after the conference.

(c) **Other Participants.** Persons who are not named as parties in this litigation but may later be joined as parties or are parties in related litigation pending in other federal and state courts are invited to attend in person or by counsel.

2. **Purposes.** The conference will be held for the purposes specified in Arizona Rules of Civil Procedure 16.3. Counsel is encouraged to advise the court as soon as possible of any items that should be added to the subjects for consideration.

3. **Preparations for Conference.**

(a) **Procedures for Complex Litigation.** Counsels are expected to be prepared at the conference to suggest procedures that will facilitate the just, speedy, and inexpensive resolution of this litigation.

(b) **Initial Conference of Counsel.** Before the conference, counsel shall confer and seek consensus to the extent possible with respect to the items under Rule 16.3, including a proposed discovery plan under Rule 26 and a suggested schedule for joinder of parties, amendment of pleadings, consideration of any class action allegations, motions, and trial. The court designates plaintiff's counsel to arrange the initial meetings of plaintiff and defendants' counsel.

(c) **Preliminary Reports.** Counsel will submit to the court with the pre-conference memorandum required pursuant to Rule 16.3, a brief written statement indicating their preliminary understanding of the facts involved in the litigation and the critical factual and legal issues. These statements not will not be binding, will not waive claims or defenses, and may not be offered in evidence against a party in later proceedings.

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(d) **List of Pending Motions.** Counsel's statement shall list all pending motions.

(e) **List of Related Cases.** Counsel's statement shall list all related cases pending in state or federal court and their current status, to the extent known.

4. **Submission of Joint Report.** Pursuant to Rule 16.3 the parties' Joint Status Report shall be submitted to the court not later than **June 15, 2009.**

5. **Interim Measures.** Until otherwise ordered by the court:

(a) **Pleadings.** Each defendant is granted an extension of time for responding by motion or answer to the complaint(s) until a date to be set at the conference.

(b) **Pending and New Discovery.** Pending the conference, all outstanding disclosure and discovery proceedings are stayed and no further discovery shall be initiated.

THIS ORDER DOES NOT:

1. Preclude voluntary informal discovery regarding the identification and location of relevant documents and witnesses;

2. Preclude parties from stipulating to the conduct of a deposition that has already been scheduled;

3. Prevent a party from voluntarily making disclosure, responding to an outstanding discovery request; or

4. Authorize a party to suspend its efforts in gathering information needed to respond to a request.

Relief from this stay may be granted for good cause shown, such as the ill health of a proposed deponent.

(c) **Preservation of Records.** Each party shall preserve all documents and other records containing information potentially relevant to the subject matter of this litigation. Each party shall also preserve any physical evidence or potential evidence and shall not conduct any testing that alters the physical evidence without notifying opposing counsel and, unless counsel stipulate to the test, without obtaining the court's permission to conduct the test. Subject to further order of the court, parties may continue routine

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erasures of computerized data pursuant to existing programs, but they shall immediately notify opposing counsel about such programs and preserve any printouts of such data.

Requests for relief from this directive will receive prompt attention from the court.

COUNSEL AND THE PARTIES ARE REQUIRED TO NOTIFY THE COURT FORTY-EIGHT (48) HOURS IN ADVANCE IF A COURT REPORTER IS REQUESTED.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>